

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ELGRET L. BURDEX,)	
)	
Plaintiff,)	
vs.)	NO. CIV-10-119-D
)	
PHILLIP SMITH, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff, who appears *pro se*, brought this action pursuant to 42 U. S. C. § 1983. He alleges that his constitutional rights were violated during his confinement as a pretrial detainee. Pursuant to 28 U.S.C. §636(b)(1)(B), the matter was referred to United States Magistrate Judge Doyle W. Argo for initial proceedings. Plaintiff filed a motion for a temporary restraining order and preliminary injunction [Doc. No. 22]. On November 30, 2010, the Magistrate Judge filed a Report and Recommendation [Doc. No. 66] in which he recommended that Plaintiff's request for injunctive relief be denied. As the Magistrate Judge explained, Plaintiff's request for injunctive relief was based on alleged inadequacies in Plaintiff's medical treatment and other conditions of his confinement at the Caddo County jail. As the Magistrate Judge also explained, the record reflects that Plaintiff is no longer confined at the Caddo County, Oklahoma jail. Accordingly, the Magistrate Judge recommended that Plaintiff's request for injunctive relief be denied as moot.

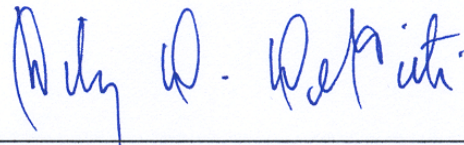
In the Report and Recommendation, the Magistrate Judge advised Plaintiff of his right to object to the findings and conclusions set forth therein; he also cautioned Plaintiff that a failure to timely object would constitute a waiver of his right to appellate review of the Report and Recommendation. The Magistrate Judge scheduled a December 20, 2010 deadline for filing objections. That deadline has expired, and Plaintiff has not filed an objection or sought an extension

of time in which to do so. Because Plaintiff failed to timely object to the Report and Recommendation, it is deemed confessed.¹

In any event, the Court agrees that the record, as explained in the Report and Recommendation at pages 2-3, reflects Plaintiff is no longer confined at the Caddo County jail. Thus, his request for injunctive relief regarding his confinement there is moot.

The Report and Recommendation [Doc. No. 66] is ADOPTED as though fully set forth herein. Plaintiff's request for injunctive relief [Doc. No. 22] is DENIED. Because the Report and Recommendation does not dispose of all issues referred to the Magistrate Judge, this matter remains under referral.

IT IS SO ORDERED this 29th day of December, 2010.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

¹As the Magistrate Judge noted in the Report and Recommendation, the record reflects that previous Court mailings to Plaintiff have been returned as undeliverable; the notation "No Longer Here" was on the envelope returned to the Court Clerk by the Caddo County jail [Doc. No. 65, p. 5]. The Report and Recommendation mailed to Plaintiff at the last address he provided was also returned as undeliverable. According to the Local Civil Rules, the Court is responsible only for mailing Court papers to the last address provided by Plaintiff; he is responsible for advising the Court of any address change. *See* LCvR 5.4(a). "Papers sent by the Court will be deemed delivered if sent to the last known address given to the Court." *Id.* The record establishes that Plaintiff has not provided any address other than the Caddo County jail.